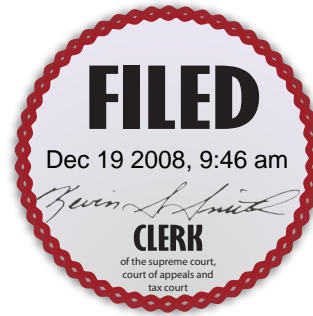


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

W.H.,)	
)	
Appellant-Respondent,)	
)	
vs.)	No. 49A05-0805-JV-300
)	
MARION COUNTY DEPARTMENT OF CHILD)	
SERVICES and CHILD ADVOCATES, INC.,)	
)	
Appellees-Petitioners.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
Cause No. 49D09-0710-JT-46002

December 19, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

W.H. (“Father”) appeals the trial court’s termination of his parental rights over his three minor children, W.R.H., Ti.M., and Ta.M. Father raises a single issue for our review, namely, whether the trial court’s order terminating his parental rights is clearly erroneous because the children are not currently in pre-adoptive homes.

We affirm.

FACTS AND PROCEDURAL HISTORY

In its order terminating Father’s parental rights, the trial court stated the following relevant facts and conclusions:

2. A Petition Alleging Children in Need of Services [(“CHINS”)] was filed on [Ti.M.] and [Ta.M.] . . . on June 27, 2006. Allegations contained within the Petition included [Mother, D.M.¹] abandoning [Ti.M.] at [a] department store after being pursued for shoplifting, thereby endangering the child. [Father] was unavailable and his ability and willingness to parent were unknown.
3. On July 21, 2006, [Mother] entered an Agreed Entry to the CHINS allegations and [Father] admitted to the allegations. The parties proceeded to disposition. [Ti.M.] and [Ta.M.] were formally removed from the parents on that date and have now been removed for over six (6) months.
4. A Petition Alleging Children in Need of Services was filed on child [W.R.H.] . . . on August 4, 2006[,] as a result of reports that he was not being provided with an appropriate home environment which would meet his basic needs for food and shelter and that a CHINS proceeding was open on [Ti.M.] and [Ta.M.] [Father’s] whereabouts were unknown and he had not demonstrated the willingness or ability to appropriately parent.
5. Both parents entered admissions to the Petition on January 18, 2007. [W.R.H.] was formally removed from his parents on that date

¹ Mother does not appeal the termination of her parental rights.

pursuant to a dispositional order. [W.R.H.] has now been removed from his parents for over six (6) months.

* * *

19. There is a reasonable probability that the conditions that resulted in the children's removal and placement outside the home will not be remedied by [Father]. [Father] did not avail himself of court[-]ordered services for well over a year until he attended an intensive substance abuse treatment orientation appointment on December 12, 2007[,] and an assessment on January 28, 2008. He failed to attend program sessions. [Father] was given a diagnosis of Cannabis and Alcohol Dependence at his assessment by Albert Johnson from Family Service. [Father] had related that he had been using marijuana daily since he was age 18. He had used both marijuana and alcohol within forty-eight hours of the assessment. [Father] also has at least six convictions for alcohol, marijuana or cocaine charges.

[Father] remains unavailable to parent since he has not participated in services toward reunification. He has never had a residence of his own and currently lives with his sister and her two children in a two-bedroom residence. He has not held a job since 1999. He has applied for disability which has been denied a few times. Given his lack of resources, he is currently unable to appropriately parent.

* * *

20. [Ti.M.] and [Ta.M.] are placed together in therapeutic foster care to receive counseling for special needs. The girls will be placed in pre-adoptive homes once their school year ends. [Ti.M.] and [Ta.M.] are improving in school and behavior. [W.R.H.] has been placed at Valle Vista due to extensive needs. He is ready to be in a foster care home that can supply a lot of commitment to address his needs.
21. Termination of the parent-child relationship is in the best interests of the children. The children will then be free to be adopted into a safe, stable, and permanent environment where their needs can be met. The children have been out of the home for over one and one-half years. The parents have still not successfully addressed treating their self-admitted drug use, and currently do not have homes or income.
22. There is a satisfactory plan for the care and treatment of the child[ren], that being adoption. Although the children are not

currently placed in pre-adoptive homes, Jamie Martin, family case manager, is confident the children are adoptable and will be adopted. Steps are being taken by [the Marion County Department of Child Services, or “MCDCS”] to find adoptive homes.

23. The children’s Guardian ad Litem, Gregg Ellis, did not agree with MCDCS to terminate parental rights at this time based on the children’s hopes of returning to their mother and the fact that a pre-adoptive home had not been found. Instead of termination, Mr. Ellis felt the children’s best interests would be served by MCDCS continuing to offer services toward reunification while actively seeking out an adoptive home. However, by the third trial date in this matter, [Mother] was not participating in services and her whereabouts had become unknown.

Appellant’s App. at 16-19. This appeal ensued.

DISCUSSION AND DECISION

Father appeals the trial court’s termination of his parental rights. This Court has long had a highly deferential standard of review in cases concerning the termination of parental rights. In re K.S., 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). Thus, when reviewing the termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. In re D.D., 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), trans. denied. Instead, we consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. Id.

Here, the trial court made specific findings in terminating Father’s parental rights. Where the trial court enters specific findings of fact, we apply a two-tiered standard of review. First, we must determine whether the evidence supports the findings. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). Second, we determine whether the findings support the judgment. Id. In deference to the trial court’s unique position to assess the evidence, we will set aside the court’s judgment

terminating a parent-child relationship only if it is clearly erroneous. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), trans. denied. A judgment is clearly erroneous if the findings do not support the trial court's conclusions or the conclusions do not support the judgment. Bester, 839 N.E.2d at 147.

In order to terminate a parent-child relationship, the State is required to allege:

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied;
or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2) (1998). If the trial court finds the allegations in the termination petition described in section four to be true, the court shall terminate the parent-child relationship. I.C. § 31-35-2-8. The State must establish each of these allegations by clear and convincing evidence. Egley v. Blackford County Dep't of Pub. Welfare, 592 N.E.2d 1232, 1234 (Ind. 1992).

Here, Father's only argument for reversing the trial court's termination order is that the court's order is premature because "none of the children [are] in pre-adoptive homes." Appellant's Brief at 9. In support of that position, Father cites to his own testimony, in which he stated that he believed W.R.H. would be negatively affected by the termination of Father's parental relationship. Father also cites the testimony of the Guardian ad Litem, who "felt the children's best interests would be served by MCDCS

continuing to offer services toward reunification while actively seeking out an adoptive home.” Appellant’s App. at 19. But Father’s arguments are nothing more than a request for this court to reweigh the evidence, which we will not do. See In re D.D., 804 N.E.2d at 264.

Father does not dispute that the MCDCS demonstrated, by clear and convincing evidence, the requirements of Indiana Code Section 31-35-2-4(b)(2). Indeed, Father concedes that “he has a drug problem,” “that he does not have the financial means to care for the children[,] and that there is no[] room for three children at the place where he is currently living.” Appellant’s Brief at 8. And insofar as Father’s argument is a challenge to the MCDCS’s plan for the care and treatment of the children, Father’s argument assumes that the MCDCS is required to specify a pre-adoptive home in that plan. But that is not the law in Indiana. To the contrary, the MCDCS’s plan “need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated.” In re D.D., 804 N.E.2d at 268. “Attempting to find suitable parents to adopt the children is clearly a satisfactory plan. The fact that there was not a specific family in place to adopt the children does not make the plan unsatisfactory.” Lang v. Starke County Office of Family & Children, 861 N.E.2d 366, 375 (Ind. Ct. App. 2007) (citation omitted), trans. denied. Accordingly, Father’s argument is without merit.

Affirmed.

BAKER, C.J., and KIRSCH, J., concur.